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January 3, 2018

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

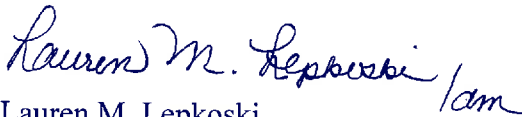
Re: Keith Lenz v. Pennsylvania Electric Company
Docket No. C-2017-2605065

Dear Secretary Chiavetta:

Enclosed please find the Motion to Compel of Pennsylvania Electric Company with regard to the above-captioned matter. This document has been served on the Complainant as shown in the Certificate of Service.

Please contact me if you have any questions regarding this matter.

Very truly yours,


Lauren M. Lepkoski

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Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KEITH LENZ

v.

PENNSYLVANIA ELECTRIC COMPANY

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Docket No. C-2017-2605065

NOTICE TO PLEAD

TO: Keith Lenz

Pursuant to 52 Pa. Code § 5.102(b), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Motion to Compel of Pennsylvania Electric Company within **five (5) days** from the service of the Notice, the facts set forth by Pennsylvania Electric Company in the Motion may be deemed to be true, thereby requirement no other proof. All pleading, such as a Reply to Motion, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy service to counsel for Pennsylvania Electric Company, and where applicable, the Administrative Law Judge presiding over the case.

File with:

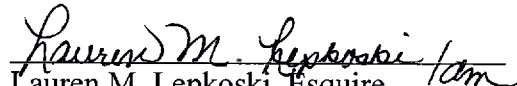
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

With a copy to:

Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
301 5th Avenue, Suite 220
Pittsburgh, PA 15222

Lauren M. Lepkoski
Tori L. Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001

Date: January 3, 2018


Lauren M. Lepkoski, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KEITH LENZ

v.

**PENNSYLVANIA ELECTRIC
COMPANY**

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Docket No. C-2017-2605065

**MOTION OF PENNSYLVANIA ELECTRIC COMPANY TO COMPEL RESPONSES
TO INTERROGATORIES AND DOCUMENT REQUESTS**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pennsylvania Electric Company (“Penelec” or the “Company”) by and through its attorneys, Lauren M. Lepkoski and Tori L. Giesler, and pursuant to 52 Pa. Code §§ 5.371-5.372, hereby files this Motion to compel Keith Lenz (“Complainant”) to provide full and complete responses to interrogatories and document requests issued by the Company on December 12, 2017.

In support thereof, the Company avers as follows:

I. BACKGROUND

1. On May 18, 2017, the Complainant filed a Formal Complaint with the Pennsylvania Public Utility Commission (“Commission”) regarding 4281 Dunn Valley Road, McKean, Pennsylvania 16426 (“Service Location”) under Account No. 100003818729 (“Account”) which was electronically served on the Company on May 19, 2017.

2. On June 8, 2017, the Company filed its Answer denying the material allegations.

3. Counsel for the Company attempted to contact the Complainant on several occasions to discuss the Formal Complaint and left messages. No return call was received from the Complainant.

4. On November 13, 2017, a Call-In Telephonic Hearing Notice was issued which scheduled a telephonic hearing for May 8, 2018 and May 9, 2018 before Administrative Law Judge Jeffrey A. Watson.

5. On November 28, 2017, a Prehearing Order was issued by Administrative Law Judge Jeffrey A. Watson which sets forth the procedural schedule for the parties.

6. On December 12, 2017, in accordance with 52 Pa. Code § 5.341, the Company forwarded to the Complainant interrogatories and document requests (“Discovery Requests”) via United Parcel Service overnight delivery. Objections to the Discovery Requests were due on December 22, 2017 and answers to the Discovery Requests were due on January 2, 2018. In its Discovery Requests, the Company sought information and documents related to the Complainant’s allegations regarding the Company’s smart meters. A copy of the Discovery Requests of the Company is attached as Exhibit A.

7. The Complainant did not file any objection to the Discovery Request and has not provided any responses or the requested documents by the due date.

II. MOTION TO COMPEL

8. The Commission’s regulations permit the discovery of “any matter, not privileged, which is relevant to the subject matter involved in the pending action.” 52 Pa. Code § 5.321(c).

9. Generally speaking, this Commission applies a standard of relevance which is less restrictive than that required by parties to present information into the evidentiary record. *Id.*

10. Discovery may be obtained regarding any matter relevant to the subject matter. Relevant evidence is evidence that tends to make an act at issue more or less probable. Moreover, evidence is relevant if it advances the inquiry in some degree and, thus, has probative value. Although the law does not furnish an absolute test of relevancy, the Pennsylvania Supreme Court

follows a two–part analysis for determining relevance. In *Commonwealth v. Stewart*, 461 Pa. 274, 336 A.2d 282 (1975), the Court held that “[i]t must be determined first if the inference sought to be raised by the evidence bears upon a matter at issue in this case and, second, whether the evidence renders the desired inference more probable than it would be without the evidence. *Id.* at 284.

11. The information sought here by the Company is relatively simple and straightforward. It is directly relevant and material to the issues raised by the Complainant. The Company is entitled to the requested information to enable it to fully investigate the Complainant’s allegations.

12. The Commission’s Regulations at 52 Pa. Code § 5.371 address the consequences of a participant’s failure to comply with the Commission’s discovery regulations. Section 5.371 provides that:

- (a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:
 - (1) A party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

13. Further, 52 Pa. Code § 5.372 provides that the presiding officer may impose appropriate sanctions upon a party found to be found in violation of the obligations set forth in the Commission’s Regulations.


14. The Company requests that the Complainant be directed to provide full and complete responses to the Discovery Requests to be received by the undersigned counsel for the Company within five business days after entry of an Order Granting the Motion to Compel.

15. In the event the Complainant is directed by the Commission, but fails to respond to the Company’s Discovery Requests, the Company respectfully requests that the Complaint against the Company be dismissed in its entirety.

WHEREFORE, Pennsylvania Electric Company respectfully requests that the Commission issue an Order compelling the Complainant to fully and completely respond to the Discovery Requests such that the responses are received by counsel for the Company no later than five business days after entry of an Order on the Motion to Compel. Further, in the event the Complainant does not comply with the Order directed by the Commission and fails to respond to the Company's Discovery Requests, the Company respectfully requests that the Commission dismiss in its entirety the Complaint of Keith Lenz.

Respectfully submitted,

Dated: January 3, 2018


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tgiesler@firstenergycorp.com

Counsel for Pennsylvania Electric Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

KEITH LENZ

v.

PENNSYLVANIA ELECTRIC COMPANY

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Docket No. C-2017-2605065

CERTIFICATE OF SERVICE

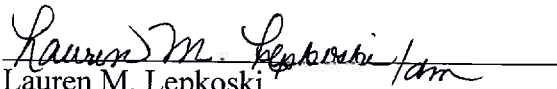
I hereby certify that I have this day served a true copy of the Motion to Compel of Pennsylvania Electric Company upon the individual listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by First Class Mail, postage prepaid, as follows:

Keith Lenz
4281 Dunn Valley Road
McKean, PA 16426

Administrative Law Judge Jeffrey A. Watson
Pennsylvania Public Utility Commission
301 5th Avenue, Suite 220
Pittsburgh, PA 15222

Dated: January 3, 2018


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